

SENATE BILL No. 135

AN ACT concerning certain protection orders; relating to the protection from abuse act; providing precedence of child-related orders issued under the protection from abuse act; amending K.S.A. 2024 Supp. 60-3107 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2024 Supp. 60-3107 is hereby amended to read as follows: 60-3107. (a) The court may approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:

(1) Restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children of the parties, including, but not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns. Such order shall contain a statement that if such order is violated, such violation may constitute assault as defined in K.S.A. 21-5412(a), and amendments thereto, battery as defined in K.S.A. 21-5413(a), and amendments thereto, domestic battery as defined in K.S.A. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 21-5924, and amendments thereto.

(2) Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household, subject to the limitation of subsection (d). Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as defined in K.S.A. 21-5808(a)(1)(C), and amendments thereto, and violation of a protective order as defined in K.S.A. 21-5924, and amendments thereto. The court may grant an order, which shall expire 60 days following the date of issuance, restraining the defendant from cancelling utility service to the residence or household.

(3) Requiring defendant to provide suitable, alternate housing for the plaintiff and any minor children of the parties.

(4) Awarding temporary custody and residency and establishing temporary parenting time with regard to minor children.

(5) Ordering a law enforcement officer to evict the defendant from the residence or household.

(6) Ordering support payments by a party for the support of a party's minor child, if the party is the father or mother of the child, or the plaintiff, if the plaintiff is married to the defendant. Such support orders shall remain in effect until modified or dismissed by the court or until expiration and shall be for a fixed period of time not to exceed one year. On the motion of the plaintiff, the court may extend the effect of such order for 12 months.

(7) Awarding costs and attorney fees to either party.

(8) Making provision for the possession of personal property of the parties and ordering a law enforcement officer to assist in securing possession of that property, if necessary.

(9) Requiring any person against whom an order is issued to seek counseling to aid in the cessation of abuse.

(10) Ordering or restraining any other acts deemed necessary to promote the safety of the plaintiff or of any minor children of the parties.

(b) No protection from abuse order shall be entered against the plaintiff unless:

(1) The defendant properly files a written cross or counter petition seeking such a protection order;

(2) the plaintiff had reasonable notice of the written cross or counter petition by personal service as provided in K.S.A. 60-3104(d), and amendments thereto; and

(3) the issuing court made specific findings of abuse against both the plaintiff and the defendant and determined that both parties acted primarily as aggressors and neither party acted primarily in self-defense.

(c) *(1)* Any order entered under the protection from abuse act shall not be subject to modification on ex parte application or on motion for temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously issued in an action filed pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be subject to modification under the protection from abuse act only as to those matters subject to modification by the terms of K.S.A. 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, and on sworn testimony to support a showing of good cause. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause. If an action is filed pursuant to K.S.A. 23-3201 through 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, during the pendency of a proceeding filed under the protection from abuse act or while an order issued under the protection from abuse act is in effect, the court, on final hearing or on agreement of the parties, may issue final orders authorized by K.S.A. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that are inconsistent with orders entered under the protection from abuse act modified by a subsequent ex parte or temporary order issued in any action, except as provided in paragraph (4).

(2) *(A)* Any order entered under the protection from abuse act may be modified by a subsequent final order pursuant to a hearing or an agreement of the parties issued in any action, except as provided in paragraph (4).

(B) Any inconsistent order entered pursuant to this subsection shall be specific in its terms; and reference the protection from abuse order and parts thereof of the order being modified and. A copy thereof of the order shall be filed in both actions.

(C) The court shall consider whether the actions should be consolidated in accordance with K.S.A. 60-242, and amendments thereto.

(3) (A) On sworn testimony to support a showing of good cause and as authorized by K.S.A. 23-3201 through 23-3207 and 23-3218, and amendments thereto, orders issued under the protection from abuse act may modify orders regarding legal custody, residency and parenting time previously issued in an action for:

(i) The determination of parentage filed pursuant to article 22 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq. prior to their transfer or repeal; or

(ii) divorce, separate maintenance or annulment filed pursuant to article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 60-1601 et seq., prior to their transfer or repeal.

(B) On sworn testimony to support a showing of good cause, orders issued under the protection from abuse act may modify interlocutory orders issued pursuant to K.S.A. 23-2707, and amendments thereto.

(C) For purposes of this paragraph, immediate and present

danger of abuse to the plaintiff or minor children shall constitute good cause.

(4) (A) Any legal custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, shall be binding and shall take precedence over any such custody or parenting order involving the same child issued under the protection from abuse act, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated.

(B) Any inconsistent legal custody or parenting order issued in the revised Kansas code for care of children case or the revised Kansas juvenile justice code case shall be specific in its terms, reference any preexisting protection from abuse order and the custody being modified, and a copy of such order shall be filed in the preexisting protection from abuse case.

(d) If the parties to an action under the protection from abuse act are not married to each other and one party owns the residence or household, the court shall not have the authority to grant possession of the residence or household under subsection (a)(2) to the exclusion of the party who owns it.

(e) Subject to the provisions of subsections (b), (c) and (d), a protective order or approved consent agreement shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not less than one year and not more than two years, except as provided in ~~subsections (e)(1) and (e)(2)~~ paragraphs (1) and (2).

(1) Upon motion of the plaintiff, such period may be extended for an additional period of not less than one year and not more than three years.

(2) Upon verified motion of the plaintiff and after the defendant has been personally served with a copy of the motion and has had an opportunity to present evidence and cross-examine witnesses at a hearing on the motion, the court shall extend a protective order for not less than one additional year and may extend the protective order up to the lifetime of the defendant if the court determines by a preponderance of the evidence that the defendant has: (A) Violated a valid protection order; (B) previously violated a valid protection order; or (C) been convicted of a person felony or any conspiracy, criminal solicitation or attempt thereof, under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, committed against the plaintiff or any member of the plaintiff's household. No service fee shall be required for a motion filed pursuant to this subsection.

(f) The court may amend its order or agreement at any time upon motion filed by either party.

(g) No order or agreement under the protection from abuse act shall in any manner affect title to any real property.

(h) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as defined in K.S.A. 21-5808(a)(1)(C), and amendments thereto, and violation of a protective order as defined in K.S.A. 21-5924, and amendments thereto. If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to subsection (a)(1), such violation may constitute assault as defined in K.S.A. 21-5412(a), and amendments thereto, battery as defined in K.S.A. 21-5413(a), and amendments thereto, domestic battery as defined in K.S.A. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 21-5924, and amendments thereto.

Sec. 2. K.S.A. 2024 Supp. 60-3107 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the
SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.